

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN THE APPLICATION OF:

JUAN CARLOS FIGUEROA ET. AL.

CASE NO.: CL1759USPCT

APPLICATION NO.: 10/518330

GROUP ART UNIT: 1795

PCT DECEMBER 15, 2004  
FILED:

EXAMINER: CHU, HELEN OK

FOR: VAPOR DEPOSITED CATALYSTS AND THEIR USE IN FUEL CELLS

**RESPONSE TO ELECTION OF SPECIES REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

By Office Action dated April 30, 2008, the above-referenced application has been made subject to a requirement to restrict. Applicants submit herewith a petition for a one month extension of time under 37 CFR 1.136(a) and hereby authorize the Commissioner to charge all fees necessary for the entry of this paper, including the fee for extension of time, from Deposit Account No. 04-1928 (E.I. du Pont de Nemours and Company).

The Examiner has required an election of species for element Xa as recited in claims 1-12; 13-20; 21-26 when a is at least 0.001, and b is at least  $0.85 \cdot (1+a)$ ; and election of species for element Xa when  $a=1$  and  $b=8$ .

Applicants hereby elect, with traverse, for examination the following:

Species Xa =Nb; and when  $a=1$  and  $b=8$ , Xa =Nb.

Claims 1-26 read on the elected species. The Examiner states that no claims are generic. However, Claim 11 is generic to any catalyst.

In support of the traverse set forth above, it is well established that election of species should not be required when there is a relationship between the species. MPEP § 808.01(a).

Applicants contend that species of Xa in the claimed PtXaAl catalyst compositions are related because species of Xa are members of transitional metal elements.

As asserted by the Examiner, there is an examination and search burden for the patentably distinct species due to their mutually exclusive characteristics, for instance, that the species require different field of search. Applicants contend that the Examiner has merely made an unsupported conclusion in making this argument. As noted above, the number of species claimed in the present application is not unreasonable MPEP § 806.04(a). Applicants note that the species of element Xa are drawn towards nine transitional metal elements, and there is no serious burden on the Examiner in searching all of the species.

Accordingly, Applicants respectfully request that the requirement for election of species be withdrawn upon reconsideration, and that all of pending claims 1 through 26 be examined together.

Respectfully submitted,

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